

**BOARD FOR PROFESSIONAL ENGINEERS, LAND SURVEYORS, AND
GEOLOGISTS**

INITIAL STATEMENT OF REASONS

Hearing Date: May 12, 2011

Subject Matter of Proposed Regulations: Fees

Sections Affected:

The proposed regulation would amend Section 3005 of Title 16 of the California Code of Regulations.

Specific Purpose of each adoption, amendment, or repeal:

The purpose of the regulation amendment is to comply with and make specific Business and Professions (B&P) Code Sections 7846 and 7887 to establish fees equal to the Board's actual cost of purchasing the national Practice of Geology examination and application fees for those applicants who had previously failed any of the examinations. This proposed amendment will increase the cost to applicants applying for the national Practice of Geology examination, will eliminate the reduced examination fees for any combination of the two (2) geology national examinations and the California Specific examination when taken together at one examination administration, and will repeal Section 3005(d) of Title 16 of the California Code of Regulations allowing applicants who have previously failed the examinations to reapply without paying an application fee.

Business and Professions Code Section 7887(h) states that "each applicant for registration as a geologist shall pay an examination fee fixed by the board at an amount equal to the actual cost to the board to administer the examination described in subdivision (d) of Section 7841 that shall not exceed four hundred fifty dollars (\$450)." Currently, Section 3005(b)(5) of Title 16 of the California Code of Regulations specifies that an applicant pay \$150 for administration of the national Practice of Geology examination. However, beginning with the March 2011 examinations, the Board is being charged \$250 for each of the national Practice of Geology examinations it purchases from the National Association of State Boards of Geology (ASBOG). This is an increase of \$100 from the \$150 previously charged by ASBOG. Likewise, Sections 3005(b)(4) and 3005(b)(7) of Title 16 of the California Code of Regulations reflect fees for applicants based on \$150 fees for the Practice of Geology examination. Beginning in March 2011, this will result in a \$100 loss of revenue with each application received for the Practice of Geology Exam. The Board needs to amend the regulations to reflect a

fee of \$250 for each Practice of Geology examination application received to ensure that the Board is charging a fee equal to the Board's cost of the Practice of Geology examination, as required by Business and Professions Code Section 7887(h).

This proposed regulation would eliminate the reduced examination fees and the fee combinations listed in Section 3005 for any combination of the two (2) geology national examinations and the California Specific examination when taken together at one examination administration. Applicants would be charged the actual Board costs for each of the examinations.

In addition, Business & Professions Code Section 7887(a) requires applicants to pay \$250 when filing an application for licensure as a Professional Geologist or Professional Geophysicist, or certification as an Engineering Geologist or a Hydrogeologist. Also, Business and Professions Code Section 7846 states that "an applicant failing in an examination may be examined again upon filing a new application and the payment of the application fee fixed by this chapter." However, Section 3005(d) allows examination applicants who fail an examination to reapply without payment of the \$250 application fee within a four (4) year period after failing the examination, resulting in Section 3005(d) being out of compliance with statute. This proposal would conform the regulation to Business and Professions Code Section 7846 by requiring all applicants to pay an application fee for their examinations and would repeal Section 3005(d).

Factual Basis/Rationale

An applicant for licensure as a Professional Geologist must take and pass three separate examinations prior to obtaining licensure: the Fundamentals of Geology examination (FG), the Practice of Geology examination (PG), and the California Specific examination (CSE). The FG and PG examinations are created by, purchased from, and scored by the National Association of State Boards of Geology (ASBOG), which provides the California Board, along with the Boards of many other states, the FG and PG national examinations. Effective March 2011, ASBOG is charging all its customers (State Boards) \$250 for each of their PG examinations purchased. The Board, however, is currently charging applicants \$150 for these examinations. Not only does this result in a loss of \$100 per applicant, it results in the Board being out of compliance with statute. Business and Professions Code Section 7887(h) states that "each applicant for registration as a geologist shall pay an examination fee fixed by the board at an amount equal to the actual cost to the board to administer the examination described in subdivision (d) of Section 7841 that shall not exceed four hundred fifty dollars (\$450)."

This increase in the ASBOG PG examination fee affects several current subsections of CCR §3005. Section 3005(b)(4) states "each examination including both sections of the national examination and the California specific supplemental examination for registration as a geologist ... \$300." Since this \$300 fee is based on the \$150 cost to the Board for each of the ASBOG national examinations (FG and PG) instead of the new \$250 cost being charged by ASBOG for the PG examination, this reduced

examination fee of \$300 is much less than the cost to the Board of purchasing the examinations. This results in a significant revenue loss to the Board. To ensure that the Board charges fees equal to its actual costs, as required by Business and Professions Code Section 7887(h), the fees specified in this proposed regulation must be increased and Section 3005 needs to be restructured to accurately indicate Board fees as required by statute.

Underlying Data

Technical, theoretical or empirical studies or reports relied upon (if any):

1. ASBOG examination fee rate for March 2011 Examinations
2. Agenda Item IX, C, Issue Report prepared for possible amendments to Title 16, California Code of Regulations, Section 3005 for November 18/19, 2010 Board Meeting.
3. Minutes from the November 18/19, 2010, Board Meeting.

Business Impact

This proposed regulatory action would have an impact on applicants for licensure as a Professional Geologist due to the increase in the fees for the Practice of Geology examination. It does not appear that this impact will have a significant effect on the applicant population since those who wish to attain licensure will still need to go through the same process.

Specific Technologies or Equipment

These proposed amendments do not mandate the use of specific technologies or equipment.

Consideration of Alternatives

The only alternative to this proposed regulation is to continue charging applicants less for their Practice of Geology examinations than the Board is paying for them and continue not charging retake applicants an application fee. This would result in the Board continuing to operate with a significant deficit and to operate outside of compliance with Business and Professions Code Section 7887(h) and 7846. Based on the March 2011 examination cycle, the Board is losing an approximate total of \$38,700 each examination cycle by not operating within statutory requirements. Continuing to operate with such a significant deficit would place the economic feasibility of the geologist and geophysicist licensing program in jeopardy. This may result in less efficient processing of applications, renewals, and enforcement cases, and may eventually lead to a possible risk to consumers and the public safety if the licensing community (and the practice of unlicensed individuals) is not being policed.